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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,486	01/14/2002	Jakob Schmitt	SCHMITT-13	4006

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EXAMINER

COZART, JERMIE E

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 08/15/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/047,486

Applicant(s)

SCHMITT, JAKOB

Examiner

Jermie Cozart

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-8, drawn to a method of securing a rod shaped part in a surrounding holding member, classified in class 29, subclass 517.
  - II. Claims 9-17, drawn to a combination, classified in class 403, subclass 345.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as bending the side edges of the of the holding member downwards.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Henry M. Feiereisen on May 9, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this

Office action. Claims 19-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Specification***

5. The disclosure is objected to because of the following informalities: On page 4, line 5, it is suggested to insert - -to- - after "used". Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4, it is unclear as to what is meant by "two pressing operations in 90° offset relationship".

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3-5, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (3,442,008).

Johnson`008 discloses fabricating a flat holding member (22) having opposite edges formed with elements (20, 24) configured for interlocking engagement. The side edges of the holding member (22) are bended upwards. The holding member is shaped

into a cross-section in accordance to a cross-section of a rod-shaped part (40). The rod-shaped part (40) has been inserted into the holding member, and the holding member is press-fit about the rod-shaped part. The bending step and shaping step are implemented by a roll forming operation. The press-fit step includes at least two pressing operations in 90° offset relationship. The rod-shaped part has a radial profile, and a circular cross-section. *See column 2, line 60 – column 3, line 41, and Figures 3 and 5-8 for further clarification.*

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gutmann in view of Kasper.

Gutmann discloses securing a rod shaped part (1) in a surrounding holding member (3), the holding member (3) shaped into a cross-section in accordance to a cross-section of the rod-shaped part (1), inserting the rod-shaped part into the holding member, and press-fitting the holding member about the rod-shaped part (1). The rod-shaped part (1) has a radial profile, and a thread (not labeled). The rod-shaped part (1) is essentially a threaded rod, and has a circular cross section. *See column 5, lines 30 – 57, and Figures 1-4 for further clarification.*

Gutmann, however, does not disclose fabricating a flat holding member having opposite edges formed with elements configured for interlocking engagement, or the side edges of the holding member being bent upwards.

Kasper discloses a flat holding member (1) having opposite edges formed with elements (2, 3) configured for interlocking engagement, and the side edges of the holding member obviously having been bent upwards during formation into the tubular configuration. *See column 1, line 42 – column 2, line 9, and Figures 1-2 for further clarification.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to form the holding member of Gutmann from a flat holding member having opposite edges formed with elements configured for interlocking engagement, wherein the side edges of the holding member have been bent upwards, in light of the teachings of Kasper, in order to effectively form a tubular sleeve with an interlocking engagement that results in a smooth outer periphery.

12. Claims 1, 2, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over King, Jr. in view of Kasper.

King, Jr. discloses securing a rod shaped part (10a) in a surrounding holding member (45), the holding member (45) shaped into a cross-section in accordance to a cross-section of the rod-shaped part (10a), inserting the rod-shaped part into the holding member, and swaging or rather press-fitting the holding member about the rod-shaped part (10a). The rod-shaped part (10a) has a radial profile, and a thread (24). The rod-shaped part (10a) is essentially a threaded rod, and has a circular cross

section. *See column 3, line 73 – column 7, line 16, and Figures 4-6 and 17 for further clarification.*

King, Jr., however, does not disclose fabricating a flat holding member having opposite edges formed with elements configured for interlocking engagement, or the side edges of the holding member being bent upwards.

Kasper discloses a flat holding member (1) having opposite edges formed with elements (2, 3) configured for interlocking engagement, and the side edges of the holding member obviously having been bent upwards during formation into the tubular configuration. *See column 1, line 42 – column 2, line 9, and Figures 1-2 for further clarification.*

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to form the holding member of King, Jr. from a flat holding member having opposite edges formed with elements configured for interlocking engagement, wherein the side edges of the holding member have been bent upwards, in light of the teachings of Kasper, in order to effectively form a tubular sleeve with an interlocking engagement that results in a smooth outer periphery.

#### ***References Cited***

13. The references cited on the attached PTO-89 are cited to show forming tubular members from flat sheet metal.

#### ***Conclusion***

14. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical

personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

15. If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 703-305-0126. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.



Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Petitions/Special Programs	(703) 305-9285
Terminal Disclaimers	(703) 305-8408
PCT Help Desk	(703) 305-3257

If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov">http: www.uspto.gov</a>

  
GREGORY VIDOVICH  
SUPERVISORY PATENT EXAMINER  
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JC   
August 10, 2003